Leonard B. Hebert, Jr., & Co., Inc.;[1] Landis Construction, Inc.; Company Inc.; Pratt Farnsworth,; Boh Bros. Construction Co., Inc.; American Gulf Enterprises, Inc.; Gutler-Herbert & Co., Inc.; Pittman Construction Company, Inc.; Bartley, Incorporated; Binnings Construction Co., Inc.; Gervais Favrot Company, Inc. *and* **Carpenters District Council of New Orleans & Vicinity and Local Union 1846.** Case 15-CA-7622

December 30, 1981

DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

On May 4, 1981, Administrative Law Judge Thomas R. Wilks issued the attached Decision in this proceeding. Thereafter, counsel for the Respondent filed exceptions and a supporting brief, and the General Counsel filed a brief in support of the Administrative Law Judge.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs and has decided to affirm the rulings, findings,[2] and conclusions of the Administrative Law Judge and to adopt his recommended Order.[3]

The Administrative Law Judge found, and we agree, that Respondents violated Section 8(a)(5) and (1) of the Act by refusing to provide the information requested by the Union concerning their alleged "double breasted" nonunion companies. In doing so, he stated that the Union never contended that the information sought was essential for bargaining. Regardless of whether the Union did or did not so contend, it is clear from the record that the Union needed and sought the said information to police the existing agreement and to prepare for bargaining negotiations. We further find that the Union bargained as best it could in light of Respondent's prior refusal to furnish the information and its disparaging remarks during negotiations concerning the Union's requests, and that during negotiations the Union informed Respondent's negotiating committee chairman that it "was waiting for an answer" to its request for said information.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Leonard B. Hebert, Jr., & Co., Inc.; Landis Construction Company, Inc.; Pratt Farnsworth, Inc.; Boh Bros. Construction Co., Inc.; American Gulf Enterprises, Inc.; Gutler-Herbert & Co., Inc.; Pittman Construction Company, Inc.; Bartley, Incorporated; Binnings Construction Co., Inc.; and Gervais Favrot Company, Inc., New Orleans, Louisiana, their officers, agents, successors, and assigns, shall take the actions set forth in the said recommended Order, except that the attached notice is substituted for that of the Administrative Law Judge.

[1] We hereby correct the Administrative Law Judge's inadvertent mispelling of the name of Respondent, Leondard B. Hebert, Jr., & Co., Inc., in his Decision.

[2] Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an administrative law judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. *Standard Dry Wall Products, Inc.*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing his findings. Contrary to the Administrative Law Judge, we find insufficient evidence to establish the existence of a multiemployer bargaining unit.

[3] The notice is modified by identifying the Union's individual letter requests for information from Respondents as having been dated "between January 18 and February 12, 1980."

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT refuse to bargain collectively with Carpenters District Council of New Orleans & Vicinity and Local Union 1846, by failing and refusing to furnish the said labor organization with the information requested in the Union's letters to us of January 18, or February 19, 1980.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed them in Section 7 of the Act.

WE WILL, upon request, furnish Carpenters District Council of New Orleans & Vicinity and Local Union 1846 with the information requested in the Union's letter to us at various

dates between January 18 and February 12, 1980.

LEONARD B. HEBERT, JR., & CO., INC.; LANDIS CONSTRUCTION COMPANY, INC.; PRATT FARNSWORTH, INC.; BOH BROS. CONSTRUCTION CO., INC.; AMERICAN GULF ENTERPRISES, INC.; GUTLER-HERBERT & CO., INC.; PITTMAN CONSTRUCTION COMPANY, INC.; BARTLEY INCORPORATED; BINNINGS CONSTRUCTION CO., INC.; GERVAIS FAVROT COMPANY, INC.

DECISION

STATEMENT OF THE CASE

THOMAS R. WILKS, Administrative Law Judge: This case was heard on February 24, 1981, at New Orleans, Louisiana, pursuant to a complaint issued by the Regional Director for Region 15 on August 6, 1980, which alleges that the above-captioned Employers, herein referred to individually and collectively as the Respondents, violated Section 8(a)(5) and (1) of the National Labor Relations Act, as amended, by refusing to bargain in good faith with the above-captioned labor organization, herein referred to as the Union, in that they refused to furnish the Union with certain information. The Respondents filed an answer denying the commission of any unfair labor practices.

Upon the entire record, my observation of witnesses, and consideration of the post-hearing briefs, I make the following:

FINDINGS OF FACT

I. BUSINESS OF THE RESPONDENTS

With the exception of Pittman Construction Company, Inc., which is a Delaware corporation, the following named Respondents are Louisiana corporations which, in addition to Pittman Construction Company, Inc., maintain offices and facilities in the New Orleans, Louisiana, metropolitan area where they are engaged in the building and construction business: Leonard B. Herbert, Jr. & Co., Inc.; Landis Construction Company, Inc.; Pratt Farnsworth, Inc.; Boh Bros. Construction Co., Inc.; American Gulf Enterprises, Inc.; Gutler-Herbert & Co., Inc.; Bartley, Incorporated; Binnings Construction Co., Inc.; Gervais F. Favrot Company, Inc.

During the 12 months preceding the issuance of the complaint, a period representative of all times material herein, the foregoing named Respondents, each individually, in the course and conduct of their business, purchased and received goods and materials valued in excess of $50,000, which goods and materials were shipped directly to their respective operations located in the metropolitan area of New Orleans, Louisiana, from points located outside the State of Louisiana.

It is admitted and I find that the Respondents are, individually and collectively, and have been at all times material herein, employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

II. THE UNFAIR LABOR PRACTICES

The complaint alleges that since at least May 1, 1977, and at all times thereafter, and continuing to date, the Union has been, and is now, the representative for the purposes of collective bargaining of a majority of the employees in an appropriate unit and, by virtue of Section 9(a) of the Act, has been, and is now, the exclusive representative of all employees in said unit for the purposes of collective bargaining with respect to rates of pay, wages, hours of employment, and other terms and conditions of employment; and that the unit appropriate for collective bargaining within the meaning of Section 9(b) of the Act is as follows:

> All carpenters employed by Respondents, individually and collectively, on their construction projects located within the geographical jurisdiction of the Union, excluding all other employees.

The Respondents admitted the foregoing allegations but amended the answer at the hearing to admit that the Union is the designated bargaining agent for employees in individual bargaining units but that the Respondents deny the existence of a multiemployer bargaining unit.

The record reveals that the Respondents and the Union have, since at least 1961, maintained a collective-bargaining relationship and have entered into successive collective-bargaining agreements which embody rates of pay, wages, hours of employment, and other terms and conditions of employment. The last two contracts in that series of contracts were in effect during the periods of May 1, 1977, to April 30, 1980, and May 1, 1980, to April 30, 1982, and reveal that the Respondents are signatory thereto and parties thereby as members of the New Orleans District, Associated General Contractors of Louisiana, Inc. (herein called AGC). Those contracts further indicate that the AGC "and such other Employers for whom the [AGC] has bargained" are parties thereto and referred to therein as "contractors" or "Employers." The recognition clause therein states:

> The Contractors, during the life of this agreement, recognize the Unions as the exclusive bargaining representatives for all of their employees coming under the respective jurisdiction of the Unions for the purpose of collective bargaining in respect to rates of pay, fringes, hours of employment and other conditions of employment.

There is uncontradicted record testimony to the effect that a committee of the AGC engaged in joint bargaining with the Union on behalf of the Respondents. Accordingly, I conclude that the General Counsel has sustained its burden of proof with respect to the aforesaid allegations concerning the individual and collective nature of the bargaining unit. In any event, it is clear that the Respondents had an obligation to bargain with the Union concerning wages, hours, and conditions of employment of carpenters located within the geographi-

cal jurisdiction of the Union, whether individually or collectively.

Davy P. Laborde, Sr., the business representative of the Union, testified that he has participated in negotiations with the Respondents since 1961. In response to cross-examination, Laborde testified that for several years he had received reports from agents of the Union and other persons engaged in the construction business to the effect that some of the Respondents had formed "double breasted" companies to perform unit work with nonunion employees. Laborde testified in further cross-examination that on one occasion he had made a fruitless investigation of citings of certain machinery owned by a respondent at a jobsite of a construction company whose employees were unrepresented by the Union and where unit work was performed. Employees of one of the Respondents had also informed Laborde on another occasion that they requested the withdrawal of their union cards upon commencement of employment at a reputed "double breasted" company.

In past negotiations with the Respondents on at least two occasions Laborde proposed the incorporation into the collective-bargaining agreement of a so-called subidiary clause, for the purpose of automatically extending the coverage of the collective-bargaining agreement to additional enterprises formed by the Respondents. These attempts failed. Laborde testified, without contradiction, that he ceased such efforts in that the Respondents had continually refused to answer his inquiries as to other related companies and adamantly insisted that they maintained no double-breasted operations.

On December 15, 1978, pursuant to a representation petition filed by the Union, and a hearing conducted on November 27, 1978, the Acting Regional Director for Region 15, in Case 15–RC–6380, directed an election in a carpenters' unit at Claiborne Builders, Inc., in or near New Orleans, Louisiana. An election was conducted on January 12, 1979. Laborde testified that he engaged in a conversation on the day of that election at the Claiborne place of business with Joe Lemoine who identified himself as the treasurer of Claiborne as well as the treasurer of Perrilliet-Rickey Construction Company, Inc., which Laborde discovered then to have occupied a common premises with Claiborne.[1] Laborde testified, without contradiction and with substantial corroboration by Union Agent James Paulino, Jr., who was present, that Lemoine explained to him that Perrilliet-Rickey had formed a secondary company, i.e., Claiborne, for the purpose of competing against other "double-breasted" companies that were formed by other parties to collective-bargaining agreement; i.e., the Respondents. Although Laborde had initially fixed the date of this conversation in November 1979, he retracted his testimony to place it in January, the date of the election, having explained his confusion as to the month of the hearing and month of the election. Despite his initial confusion, I credit his uncontradicted testimony as to the substance of the conversation and to the fact that it occurred on the date of the election at Claiborne.

Paulino in his uncontradicted testimony added that, during this conversation when Lemoine asked why the Union was seeking an election at Claiborne, he, Paulino, responded: ". . . that we were going to try to organize all the non-union companies that we felt were offsprings from union companies."

Laborde testified that thereafter he determined that it was necessary to obtain information from the Respondents concerning the existence of any double-breasted enterprises in order to discover whether the Respondents had violated the collective-bargaining agreement by failing to extend the terms and conditions of the collective-bargaining agreement to the employees of such companies. Additionally, he determined that such information would assist him in contract negotiations with the Respondents with regard to two areas; e.g., whether he would revive his request for the 25 subsidiary clause, and what positions the Union should take with respect to economic issues. With respect to possible economic positions he explained that such could have been affected by knowledge of what the Respondents were affording nonunion employees of affiliated companies. That is to say, for example, he might modify his 30 economic demands if a risk existed of losing unit work to the nonunion affiliated companies.

Between January 18 and February 12, 1980, prior to the April 30, 1980, expiration date of the collective-bargaining agreement, the Union, by individual letters, requested of the Respondents answers to 13 questions, which the Union in its letter explained were necessary because of information it had obtained to the effect that the individual respondent had by the operation of a specifically named enterprise performed work which otherwise would have been performed by the Respondents and by such conduct the Respondents might be in violation of the collective-bargaining agreement provisions; i.e. "wages, scope of agreement, referral clause, fringe benefit provisions and recognition and possibly other articles." The questions are set forth as follows with the exception that the name of each alleged double-breasted company is replaced herein by the designation "other company."

> 1. What positions in [other Company] are held by each officer, shareholder, director or other management representative of your company?
>
> 2. State the name of each person who has a function related to labor relations for your Company and for [other Company]?
>
> 3. What customers of [other Company] are now or were formerly customers for your Company?
>
> 4. State the difference, if any, in the type of business engaged in by your Company and [other Company].
>
> 5. What services, including clerical, administrative, bookkeeping, managerial, engineering, estimating, or other services are performed for [other Company] by or at your Company?

[1] Perrilliet-Rickey Construction Company, Inc., was a member of the AGC and a party to the contract which expired on April 30, 1980. It was named in the instant unfair labor practice charge as was the AGC but, like the AGC, was not named in the complaint. The General Counsel stated in its brief that Perrilliet-Rickey timely withdrew from the AGC and accordingly was not named in the complaint.

6. What supervisory functions are performed by employees of your Company over employees of [other Company]?

7. What insurance or other benefits are shared in common by employees of your Company and the employees of [other Company]?

8. What skills do the employees of [other Company] possess that employees of your Company possess?

9. Please list all former employees of your Company that are now employed by [other Company] and their titles.

10. State whether [other Company] is a member of the Associated General Contractors of Louisiana, Inc.

11. Does [other Company] have separate contractor license, bank account, books, insurance policies, tax returns than your Company?

12. Was there any leasing of equipment between the two companies during the last year and was it done by written agreement?

13. Was there any interchange of employees in the field during the last year between the two companies?

The Respondents all declined to provide the requested information. Thereafter, negotiations for the most recent collective-bargaining agreement transpired and resulted in a new agreement prior to the expiration date of the old contract. The instant unfair labor practice charge had been filed on March 14, 1980.

I credit Laborde's more certain testimony that during the recent contract negotiations Robert Boh, president of Respondent Boh Bros. Construction Co., president of the AGC, and chairman of the contractors negotiation committee, referred disparagingly to the aforedescribed information request letters and to the instant unfair labor practice charge. However, Boh testified without contradiction that the Union sought no contractual modification concerning alleged double-breasted companies, nor did it state that it could not bargain effectively without the aforesaid requested information. Moreover, Laborde conceded that he said nothing more concerning the requested information other than, "Well, you received my letter, but that's it, I'm waiting for an answer." I credit his testimony.

Laborde testified that, although the collective-bargaining agreement provides for a grievance procedure, the Union chose rather to file the instant unfair labor practice charge in order to obtain the information necessary to support a grievance. Some testimony was adduced by the Respondents in cross- examination of Laborde to the effect that in June 1980 the Union filed a certain lawsuit against one of the Respondents, Pratt Farnsworth, Inc., and an alleged double-breasted company, wherein the Union alleged that the two companies constituted a single integrated employer. Laborde explained that at the time of the lawsuit he did have some information as to that individual respondent to support the suit, but that "as we go along we pick up information," and that he is continually "picking up information." Laborde testified that he consulted with an attorney as to the most efficacious manner in which to proceed.

Conclusion

The General Counsel contends that the Respondents violated Section 8(a)(5) and (1) of the Act by refusing to provide to the Union requested information concerning alleged double-breasted operations to which the Union was entitled in order properly to represent bargaining unit employees.

The Respondents take the position that the Union has failed to demonstrate a relevant need for the information requested, and that the actual purpose for which the information was sought—organizing—is irrelevant thereby excusing the Respondents of any obligation to provide same.

The Respondents argue that the information is not necessary for the administration of the contract because, despite a long history of contractual relations, such information was never previously requested. It argues that the information was not necessary to further the Union's duty of fair representation because the Union failed to prove that it needed the information for fair representation of employees and that there is no actual evidence adduced herein that the Union represents any employees of the alleged double-breasted companies.

With respect to negotiations, the Respondents assert that, in view of the Union's lack of persistence for the information during the bargaining process, it truly did not need that information; and that in any event it did not ask for other information that would have been necessary to support its economic position in bargaining.

The Respondents conclude, correctly, that the primary purpose advanced by the Union for the information was to discover whether any of the Respondents were acting as a single integrated employer with any other companies. The Respondents dismiss this objective because it concludes that the Union "already knew" that Perrilliet-Rickey and Claiborne, who are not respondents herein, were operating as separate employers having had "an official decision" of the Acting Regional Director in the representation case, and because the Union filed the lawsuit in June 1980 against another individual Respondent. The Respondents argue that the Union could have filed a unit clarification petition with the Regional Director to obtain the same information if it indeed really desired the information for the stated purpose. The Respondents further argue that if the Union believed that the contract was violated it could have filed a grievance. The Respondents conclude that the true reason for the Union's information request was a desire to engage in organizational activity, and that the Respondents are under no obligation to assist such effort. Finally, the Respondents contend that certain questions are unrelated to any proffered reason; i.e., identity of customers and membership in the AGC.

An employer is obliged by the Act to bargain in good faith with the employees' designated bargaining agent and a failure to furnish to the union requested information which is relevant to the negotiation of and administration of a collective-bargaining agreement may consti-

tute a breach of that obligation. *Detroit Edison Company* v. *N.L.R.B.*, 440 U.S. 301, 303 (1979); *N.L.R.B.* v. *Acme Industrial Co.*, 385 U.S. 432, 435–436 (1967); *N.L.R.B.* v. *Truitt Mfg., Co.*, 351 U.S. 149, 152 (1956). Information concerning terms and conditions of employment within the bargaining unit is presumptively relevant and no specific showing of relevance is required, but as to areas outside the unit a more restrictive standard of relevance is applied. *Ohio Power Company*, 216 NLRB 987, 991 (1975).

In *Associated General Contractors of California*, 242 NLRB 891 (1979), enfd. 633 F.2d 766 (9th Cir. 1980), the Board considered the issue of whether a union was entitled to receive from a multiemployer bargaining association a list of "open shop" members. Prior to the information request, the union therein had become aware of the employer association's activities in encouraging and aiding the expansion of open shop and "double breasted" ventures by its employer-members and prospective members. The Board observed that, with respect to a "double breasted" operation, i.e., a contractor who operates a union company and a nonunion company may, depending upon the factual configuration, effectuate a single appropriate bargaining unit, or separate units. The Board noted that, where a single unit has been effectuated, the collective-bargaining unit may be held to cover the nonunion employees as well, or the employer may be obliged to bargain on behalf of both enterprises with the collective-bargaining agent of the unionized entity.[2] Accordingly, the Board concluded that the Union's principal purpose in seeking the data was to "facilitate inquiry" into whether or not some of the employer association's open-shop members were bound by the collective-bargaining agreements and included in the represented units. The Board stated:

> They [unions] are entitled to the requested information under the "discovery-type" standard enumerated in *N.L.R.B.* v. *Acme Industrial Co.*, 385 U.S. at 437, to judge for themselves whether to press their claims in the contractual grievance procedure, or before the Board or courts, or through remedial provisions in the contracts under negotiation. *The Torrington Company* v. *N.L.R.B.*, 545 F.2d 840 (2d Cir. 1976). It is certainly well within the statutory responsibilities of the Unions to scrutinize closely all facets relating to the diversion or preservation of bargaining unit work and, therefore, they are fully warranted in any reasonable probing of data concerning the exclusion of the employees of certain AGC members from the bargaining units. [242 NLRB at 894, citing *N.L.R.B.* v. *Rockwell-Standard Corporation, Transmission and Axle Division, Forge Division*, 410 F.2d 953, 957 (6th Cir. 1969); *Curtiss-Wright Corporation* v. *N.L.R.B.*, 347 F.2d 61 (3d Cir. 1965).][3]

The Board also held that, even if the information was also sought by the Union for organizing purposes, it was nonetheless entitled to the information sought inasmuch as a request for information made for a proper and legitimate purpose is not vitiated by the coexistence of other purposes, or that other uses can be made of such information.[4]

In *Doubarn Sheet Metal, Inc.*, 243 NLRB 821 (1979), the Board considered issues similar, if not identical, to those raised in this case. Therein the labor organization had received "information" that a certain enterprise was performing with nonunit employees work which was of a type normally performed, and which previously had been performed by the employer with unit employees. The union thereafter by letter requested of the employer answers to seven questions concerning the business relationship of the employer with the other enterprise. Of those questions 6 are virtually the same as 6 of the 13 questions posed by the Union to the Respondents herein. The employer there, as in this case, contended that the information requested was irrelevant. The Board found that the data sought provided information as to whether a single-employer situation existed or whether the employer had assigned or contracted work to the other enterprise and therefore served the purpose of assisting the union by supporting its contention that the employer as a single employer with the other company was not meeting contractual obligations, e.g., wage scale and union security, or as a separate employer had violated contractual provisions concerning subcontracting or the industry protection clause of the collective-bargaining agreement. The Board held that the union had demonstrated the "reasonable and probable relevance" of such information in regard to its contentions of contract violations, and rejected the employer's argument that the union was obliged to demonstrate actual instances of contractual violations as a condition precedent to the employer's obligation to provide the information. The Board also rejected the argument that the union's contentions as to contract violations constituted "mere speculation or suspicion." The Board noted that the *bona fides* of the union's receipt of "information" was unchallenged.[5]

The Board's Decision in the *Doubarn* and *AGC of California* cases are dispositive of the issues in this case. The Union herein obtained "information" to the effect that the Respondents were forming double-breasted operations. It is not necessary that this "information" be shown to be accurate, nonhearsay, or otherwise admissible in a court of law, or even ultimately reliable. However, coming from several sources, including an employer party to the contract and at that time a member of the AGC, I conclude that the information was such as to warrant the inference that the Union, in consequence, entertained *bona fide* questions concerning the existence and nature of related operations of the Respondents. I

[2] *Id.* at 892, fn. 5, citing therein: *Don Burgess Construction Corporation*, 227 NLRB 765 (1977); *R.L. Sweet Lumber Company*, 207 NLRB 529 (1973), enfd. 515 F.2d 785 (10th Cir. 1979), cert. denied 423 U.S. 986.

[3] The Board noted, however, that assuming *arguendo* that the information sought was not otherwise "presumptively relevant" under the discovery standard of the *Acme Industrial Co.*, case, the relevance was established on the record before it. *Ibid.*

[4] *Ibid*, citing, *Utica Observer-Dispatch, Inc.* v. *N.L.R.B.*, 229 F.2d 575 (2d Cir. 1956).

[5] The parties therein had stipulated that the union had "received information" as set forth above. The stipulation did not specify the precise nature of that information, and the Board appears not to have considered the nature or source of the information.

conclude that the answers to these questions necessitated information that was of reasonable or probable relevance to the Union's effective performance as administrator and negotiator of the collective-bargaining agreement. Furthermore, as the Board observed, in the *AGC of California* case, the data which was sought, was sought for the primary purpose of ascertaining whether or not other specifically identified operations were so related to the Respondents' operations by a variety of factors such as to encompass the other employees within the unit. If, in fact, those employees were within the same unit, information as to them would be presumptively valid. Accordingly, I conclude that information necessary to resolve a bona fide question as to whether the collective-bargaining unit has expanded is presumptively relevant.

The Respondents' arguments that the Union's sole purpose in seeking the information was for organizational purposes are unconvincing. The Union may very well have desired to organize these other operations, but such organizing effort would be unnecessary if the Union could ascertain that these other operations constituted mere extensions of the collective-bargaining units which it represents.

Furthermore, there is no basis on which to infer that the Union already possessed conclusive information that these other operations constituted separate and distinct employing entities with separate bargaining units, as suggested by the Respondents. The answer to the Respondents' questions as to why the Union did not press for the so-called subsidiary clause in negotiations, and why it did not adduce evidence herein that it represented employees in the other companies, is self-evident; i.e., it did not have sufficient information to support its position, *ergo* its request for same. The Respondents ask, if the Union needed the information to bargain effectively, why did it not insist on the requested information in the 1980 negotiations? The answer is that the Union had already made a formal written request and had filed an unfair labor practice charge upon the Respondents' refusal to supply the information. That the Union proceeded with negotiations without the information does not indicate that the information was irrelevant to its secondary purpose nor that it would not have assisted the Union in bargaining. The Union never contended that the information was essential for bargaining nor that it was the *sine qua non* for bargaining, but only claimed that it would have assisted it in bargaining. The Respondents' contention that the requested information was too incomplete to assist the Union in bargaining again does not render it unrelated to that purpose. Perhaps the Union could have asked for more complete information, but what it did ask for was not unrelated to the secondary purposes as stated by Union Agent Laborde. In any event the information was clearly related to the primary purpose stated by the Union.

The Respondents argue that the stated primary purpose of the requested data, i.e., the ascertainment of whether the Respondents were acting as a single integrated employer with other companies, must be rejected as not being the true purpose. The Respondents claim that the Acting Regional Director had made a finding in a representation case that Perrilliet-Rickey and Claiborne were separate employer and therefore the Union was already aware of that status when it requested the same information from Perrilliet-Rickey. However, Perrilliet-Rickey is not a respondent herein. In any event, Laborde's credible testimony reveals that his conversation with Lemoine occurred after the Acting Regional Director's decision and thus he did not have sufficient information to sustain a contrary position in the representation case.

Respondent suggests that the Union must have had sufficient information regarding Pratt Farnsworth in that the Union had filed a lawsuit in which it contended that a single integrated enterprise existed. However, the nature of the law suit, the issues involved, and the decision therein are unknown. Whatever information the Union may have had regarding Pratt Farnsworth for purposes of that lawsuit, it is not shown that such information was identical to that requested in this proceeding. With respect to the Respondents' suggestions that the Union could have proceeded with a unit clarification petition with the Board, or could have filed a grievance, such action would have been fruitless without information to sustain such action. As the Board has noted, a union is entitled to seek information under discovery-type standards by which it can judge for itself whether to press its claim before the Board, the courts, or in a grievance procedure.

Finally, contrary to the Respondents, I conclude that all the questions posed by the Union to the Respondents are manifestly related to the primary purposes for which the information was sought, in view of the totality of factors the Board considers in deciding whether or not an "arm's length relationship" exists between unintegrated companies. *Don Burgess Construction Co., supra*; see also *Erlichs' Inc.*, 231 NLRB 1237, 1242–44 (1977); *Great Chinese American Sewing Co.*, 227 NLRB 1670, 1678 (1977); *Altemose Construction Company*, 210 NLRB 138 (1974).

Accordingly, I conclude that the Union by its letters of January 18 and February 12, 1980, addressed to the Respondents requested information that was relevant and necessary to the performance of its obligations as bargaining agent for the Respondents' employees; i.e., the administration and negotiation of collective-bargaining agreements with the Respondents. I therefore find that the Respondents, by failing and refusing to provide the information requested by the Union, violated and is violating Section 8(a)(5) and (1) of the Act.

CONCLUSIONS OF LAW

1. The Respondents are, individually and collectively, employers engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. By failing and refusing to provide the Union with the information it requested in its letters to the Respondents of January 18 and February 12, 1980, the Respondents have each engaged in and are engaging in unfair labor practices within the meaning of Section 8(a)(5) and (1) of the Act.

4. The aforesaid unfair labor practices are unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that by the aforementioned conduct the Respondents have violated Section 8(a)(5) and (1) of the Act, I recommend that they be ordered to cease and desist from engaging in such conduct in the future and take certain affirmative action designed to effectuate the policies of the Act.

Accordingly, I recommend that the Respondents be ordered to furnish the Union with the requested information found above to be relevant and necessary to contract administration and contract negotiation as set forth in the Union's letters to the Respondents of January 18 and February 12, 1980.

Upon the foregoing findings of fact, conclusions of law, and upon the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended:

ORDER[6]

The Respondents, Leonard B. Hebert Jr. & Co., Inc.; Landis Construction Company, Inc.; Pratt Farnsworth, Inc.; Boh Bros. Construction Co., Inc.; American Gulf Enterprises, Inc.; Gutler-Herbert & Co., Inc.; Pittman Construction Company, Inc.; Bartley, Incorporated; Binnings Construction Co., Inc.; Gervais F. Favrot Company, Inc., New Orleans, Louisiana, their officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Refusing to bargain collectively with Carpenters District Council of New Orleans & Vicinity and Local Union 1846, by refusing to furnish it with the information requested by it in its letters to the Respondents of January 18 and February 12, 1980.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them in Section 7 of the Act.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

(a) Upon request, bargain collectively with the abovenamed Union by furnishing it with the information requested by its letters of January 18 and February 12, 1980.

(b) Post at their places of business in New Orleans, Louisiana, copies of the attached notice marked "Appendix."[7] Copies of said notice, on forms provided by the Regional Director for Region 15, after being duly signed by the Respondents' representative, shall be posted by the Respondents immediately upon receipt thereof, and be maintained by them for 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondents to insure that said notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 15, in writing, within 20 days from the date of this Order, what steps the Respondents have taken to comply herewith.

[6] In the event no exceptions are filed as provided by Sec. 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions, and Order, and all objections thereto shall be deemed waived for all purposes.

[7] In the event that this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."